

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

PRETIUM PACKAGING, L.L.C.,

Plaintiff,

vs.

VPET USA, INC.,

Defendant.

CASE NO. 4:12-CV-00811

**CONSENT JUDGMENT**

THIS MATTER having been presented to the Court with the consent of Plaintiff Pretium Packaging, L.L.C., and Defendant VPET USA, Inc., and based upon the following facts, judgment against Defendant VPET USA, Inc., and for Plaintiff Pretium Packaging, L.L.C., on each of the claims and causes of action asserted in Plaintiff's Complaint, is hereby entered, as follows:

1. Plaintiff Pretium Packaging, L.L.C., is a limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 15450 South Outer Forty Drive, Suite 120, St. Louis, Missouri 63107.

2. Defendant VPET USA, Inc., is a corporation incorporated and existing under the laws of the State of California, having a principal place of business at 12925 Marlay Avenue, Fontana, California 92337.

3. Plaintiff filed a Complaint against Defendant alleging that Defendant, by its sale of the accused container, as shown in Exhibit 1 hereto, (the "Accused Product") has intentionally and willfully infringed Plaintiff's rights in United States Patent No. D607,743S entitled "Container" ("Patent-In-Suit"), Plaintiff's trademark and trade dress rights in its 73oz.

PET container ("Plaintiff's Container"), and engaged in unfair competition through the sale and marketing of products embodying the design and appearance of Plaintiff's Container and which are infringing and deceptive copies of Plaintiff's product design and trade dress, all as set forth in more detail in the Complaint.

4. Plaintiff and Defendant, desiring to resolve the controversies between them with regard to Plaintiff's claims, have consented to the entry of this Consent Judgment.

5. Each party executing this Consent Judgment represents and warrants that it:

- a. has had the opportunity to consider the terms and provisions of this Consent Judgment;
- b. has had the opportunity to consult with an attorney of its own choosing prior to executing this Consent Judgment;
- c. has carefully read this Consent Judgment in its entirety and fully understands the significance and consequences of all of its terms and provisions; and
- d. is entering into this Consent Judgment voluntarily and of its own free will and assents to all its terms and conditions.

**Accordingly, it is hereby ORDERED, ADJUDGED, AND DECREED:**

1. This Court has subject matter jurisdiction over the claims asserted by Plaintiff and personal jurisdiction over Defendant.

2. Plaintiff is the owner of all right, title, and interest in and to the Patent-In-Suit.

3. The Patent-In-Suit was duly and legally issued by the United States Patent and Trademark Office and is valid and enforceable.

4. Defendant shall pay to Plaintiff \$2,500.00 (Two Thousand, Five Hundred Dollars) within five (5) calendar days of the date of entry of this Consent Judgment by the Court. Except

as otherwise stated herein, Defendant shall not otherwise be liable for the costs or attorney's fees incurred by Plaintiff in this action.

5. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Defendant, its officers, directors, agents, employees, distributors, successors, assigns, and all other persons acting on their behalf or under their control or in active concert or participation with any of them are hereby permanently enjoined from:

- a. from producing, importing, exporting, marketing, distributing, offering for sale, or selling the Accused Product.
- b. from engaging in any activities which infringe Plaintiff's rights in the Patent-In-Suit under 35 U.S.C. § 271;

6. Defendant is further ordered to destroy all blow molds and master blow molds used to manufacture the Accused Product and to certify to Plaintiff no later than fourteen (14) days after the entry of this Consent Judgment that Defendant has destroyed all such molds.

7. In the event of any violation Sections 5 and 6 of this Consent Judgment, and upon the approval of a specific bill of costs and fees by this Court, Defendant shall be responsible for, and expressly agrees to pay, all costs and fees, including legal fees, that Plaintiff incurs in enforcing the terms of this Consent Judgment, including but not limited to, costs incurred or associated directly or indirectly with filing or otherwise bringing and prosecuting any claim, motion, cause of action, suit, rule to show cause, or contempt motion for purposes of enforcing any term or provision of this Consent Judgment.

8. The parties agree that the Court shall retain jurisdiction to enforce the terms of this Consent Judgment.

9. This consent Judgment and each and every term hereof shall be construed in accordance with the laws of the United States of America and the State of Missouri.

**SO ORDERED:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. David D. Noce,  
United States Magistrate

**CONSENTED TO:**

**Pretium Packaging, L.L.C.**

By:  \_\_\_\_\_

Printed Name: George A. And

Title: CFO - Pretium

**VPET USA, Inc.**

By:  \_\_\_\_\_

Printed Name: Henry Lee

Title: president

**LEWIS, RICE & FINGERSH, L.C.**

By:  \_\_\_\_\_

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VPET USA, Inc.*

**EXHIBIT 1**

**Accused Product**











